

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

14-MD-2543 (JMF)

GENERAL MOTORS LLC IGNITION SWITCH LITIGATION

MEMORANDUM OPINION
AND ORDER

This Document Relates To:
White v. GM Motor Co., 21-CV-8241
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JESSE M. FURMAN, United States District Judge:

On December 22, 2021, New GM filed a motion to dismiss *pro se* Plaintiff Evelyn White's Complaint pursuant to Rule 12(b) of the Federal Rules of Civil Procedure. *See* ECF No. 8696. As Plaintiff did not file any opposition to the motion, the Court, on February 9, 2022, ordered her to show cause by February 23, 2022, why Defendant's motion should not be deemed unopposed. ECF No. 8706. The Court warned Plaintiff that failure to show such good cause "may result in Defendant's motion being granted as unopposed or in dismissal of the case for abandonment or failure to prosecute pursuant to Rule 41 of the Federal Rules of Civil Procedure." *Id.* To date, Plaintiff has not filed any response.

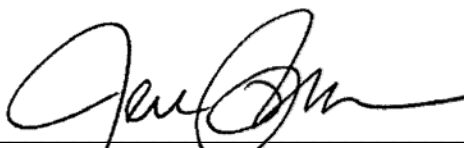
Defendant's motion is GRANTED and the case is dismissed, for failure to prosecute pursuant to Rule 41 and substantially for the reasons stated in Defendant's memorandum of law. *See* ECF No. 8697. In particular, the Court agrees that there is no federal question jurisdiction over Plaintiff's claims as pleaded. That said, Plaintiff may be able to replead her claims pursuant to federal diversity jurisdiction. *See* 28 U.S.C. § 1332. Accordingly, the dismissal is without prejudice and Plaintiff is *sua sponte* granted leave to amend. *See Gomez v. USAA Fed. Sav. Bank*, 171 F.3d 794, 795 (2d Cir. 1999) (per curiam) (explaining that courts should grant *pro se* plaintiffs leave to amend "at least once when a liberal reading of the complaint gives any indication that a valid claim might be stated" (internal quotation marks omitted)).

Its is hereby ORDERED that the above-title action is DISMISSED and discontinued without costs and without prejudice to reopen the action **if Plaintiff files an Amended Complaint within thirty days** of the date of this Order. To be clear, any Amended Complaint **must** be filed **by that deadline** and should include all facts and claims upon which Plaintiff seeks to rely; the Amended Complaint will replace, not be an addition to, the existing complaint. Any application to reopen the case thereafter may be denied solely on that basis.

Any pending motions are moot. All conferences are vacated. The Clerk of Court is directed to close the case and to mail a copy of this Order to Plaintiff.

SO ORDERED.

Dated: March 7, 2022
New York, New York



JESSE M. FURMAN
United States District Judge